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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---------------|-----------------------|---------------------|------------------|
| 10/531,530 | 11/14/2005 | Johannes-Joerg Rueger | 10191/3738 | 9104 |
| 26646 | 7590 | 07/28/2008 | EXAMINER | |
| KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004 | | | SAN MARTIN, JAYDI A | |
| ART UNIT | PAPER NUMBER | | | |
| | 2834 | | | |
| MAIL DATE | DELIVERY MODE | | | |
| 07/28/2008 | PAPER | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/531,530 | RUEGER ET AL. | |
| | Examiner | Art Unit | |
| | J. A. San Martin | 2834 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 March 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 12-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 12-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-14 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hedenetz et al. (US 6016231).

Hedenetz discloses a method for controlling a piezoelectric actuator, comprising: performing a voltage detection at a specified time of a voltage applied to the piezoelectric actuator in order to produce a detected voltage; and if a certain variable is present, blocking at least one of the voltage detection and a relaying of the detected voltage value. In the abstract Hedenetz discloses sensing the voltage across the device at a predetermined time in synchronization with a fuel injection event of the piezoelectric element. Hedenetz also discloses the read voltage used to correct a charging or discharging of a piezoelectric element and/or for diagnosis purposes.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedenetz.

Hedenetz discloses the claimed invention as explained above, but fails to disclose the blocking being performed as a function of (a) a variable that characterizes an interval between a time the is measured and the time of the charging/discharging operation of the piezoelectric actuator, (b) triggering duration of the piezoelectric actuator or (c) charging time of the piezoelectric actuator.

Hedenetz does disclose in paragraph 9 that it is possible to compensate for actuator aging phenomena and accordingly regulate the actuator reference voltage. Although not explicitly disclosed, the Examiner considers that one with ordinary skill in the art would recognize at least one of the claimed functions to be necessary to compensate for the aging of the piezoelectric actuator. In other words, it would have been obvious to make a correction to the voltage to be applied to the piezoelectric actuator to optimize the performance of the fuel injection system.

Response to Arguments

4. Applicant's arguments filed 3/25/08 have been fully considered but they are not persuasive.

5. Applicant's arguments regarding the lack of teachings in Hedenetz are not persuasive. In paragraph 44, Hedenetz discloses the use of resistors to measure the currents that flow during the

charging and discharging of the piezoelectric elements. Knowing these currents will allow proper and controlled charging/discharging time, currents and voltages of the piezoelectric element. Further in paragraph 52, Hedentz discloses the process of charging the piezoelectric element as a function of a detected variable at a specific point. In paragraph 84, Hedenetz discloses measuring the voltages after the charging or discharging actions which establish the voltage level to be measured. By doing so, it is possible to avoid voltage measurements being taken during an oscillation period following the charging/discharging action. Therefore, the examiner considers the rejection as proper, and maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. A. San Martin whose telephone number is 571-272-2018. The examiner can normally be reached on M-Th 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren E. Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A. San Martin/
Primary Examiner
Art Unit 2834

7/21/08